ESCROW AGREEMENT  
THIS ESCROW AGREEMENT (this “Agreement”) is made and entered into as of April 8, 2013  
by and among IGX GLOBAL INC., a New Jersey corporation (“IGX NJ”), XXXXXX XXXXX,  
(“Xxxxx”), IGXGLOBAL CORP., a Delaware corporation (“IGX DE”), IGAMBIT INC., a Delaware  
corporation (“iGambit”), and XXXXXXX & XXXXXXX, a legal professional association (the “Escrow  
Agent”). Capitalized terms used in this Agreement and not otherwise defined in this Agreement  
shall have the meanings for such terms set forth in the Rescission Agreement (as defined below).  
W I T N E S S E T H:  
WHEREAS, IGX NJ, Xxxxx, IGX DE and iGambit are parties to a certain Asset and Stock  
Purchase Agreement dated as of December 28, 2012 (as amended and in effect, the “Purchase  
Agreement”) pursuant to which (a) IGX DE purchased from IGX NJ substantially all of the assets of  
IGX NJ (the assets so purchased being the “IGX NJ Assets”) and (b) IGX DE purchased from Xxxxx  
the entire issued share capital of IGXGlobal UK Limited (“IGX UK”), being 1 ordinary share of  
£1.00 (the “IGX UK Shares”); and  
WHEREAS, IGX NJ, Xxxxx, IGX DE and iGambit are parties to that certain Rescission  
Agreement dated as of April 8, 2013 (as amended and in effect, the “Rescission Agreement”),  
pursuant to which the Purchase Agreement, and all other documents, instruments, securities and  
other certificates executed or delivered in connection with the transactions described by the Purchase  
Agreement shall be canceled, rescinded and rendered null and void, ab initio (the “Rescission”); and  
WHEREAS, the Rescission Agreement requires that $200,000 of the Initial iGambit Payment  
be deposited into an escrow account with Escrow Agent (the “Escrow Funds”) to be released upon  
the terms and conditions set forth herein;  
WHEREAS, the Rescission Agreement further requires that the applicable parties execute (i)  
the Rescission Xxxx of Sale, (ii) the Rescission Assignment-Assumption Agreement, (iii) the  
Rescission Assignment-Assumption of Lease, (iv) the Mayo Assignment-Assumption Agreement  
and (v) the IGX UK Share Transfer Documents (collectively, the “Escrow Documents”) and deposit  
them with the Escrow Agent to be released upon the terms and conditions set forth herein;  
NOW, THEREFORE, in consideration of the covenants and agreements contained herein, the  
Rescission Agreement and the Rescission contemplated by the Rescission Agreement, the parties  
hereto promise and agree as follows:  
1.  
Escrow.  
(a)  
On the date hereof, the applicable parties hereto shall deliver to the Escrow Agent the  
Escrow Documents to be held in escrow pursuant to this Agreement.  
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(b)  
On or before April 2, 2013, IGX NJ and/or Xxxxx shall deposit the Escrow Funds with  
Escrow Agent to be held in escrow pursuant to this Agreement. The parties hereto agree that, for tax  
reporting purposes, if applicable, all interest or other income earned on or from the Escrow Funds  
(the “Income”) shall be allocated by Escrow Agent to iGambit. iGambit shall simultaneously  
herewith provide to the Escrow Agent a certified tax identification number on Form W-9. Such  
Income shall be held by the Escrow Agent as Escrow Funds hereunder until released pursuant to the  
terms of this Agreement applicable to the release of Escrow Funds (including Section 2). All Income  
earned under this Agreement shall be allocated and paid as provided herein and reported by the  
recipient to the Internal Revenue Service as having been so allocated and paid.  
2.  
Release of Escrow Documents.  
(a)  
The Escrow Funds (including any Income) and Escrow Documents are to be released  
upon either clause (i) or (ii) below occurring (each of the events set forth in clause (i) and (ii) below  
being a “Release Event”):  
(i)  
iGambit shall be entitled to receive the Escrow Funds (including any Income),  
and IGX NJ shall be entitled to receive the Escrow Documents upon all of the following conditions  
to Rescission being met:  
(A)  
IGX NJ and/or Xxxxx shall have secured adequate financing in an  
aggregate amount equal or exceeding the sum of: (1) the Initial iGambit Payment;  
(2) the amount necessary to fully repay the indebtedness (the “Keltic Debt”) of  
iGambit and IGX DE to Keltic Financial Partners II, LP (“Keltic”) under the Loan  
and Security Agreement dated December 31, 2012 by and between Keltic Financial  
Services II LLP and IGXGLOBAL Corp. (collectively with all other documents,  
instruments, securities and other certificates executed or delivered in connection with  
the Keltic Debt, the “Keltic Debt Documents”); (3) any outstanding audit fees due  
and owing from iGambit to Xxxxxxxxx, Xxxxxx & XxXxxxxxxx LLP relating to IGX NJ,  
which the Parties hereby acknowledge to be $75,000.00; (4) up to $95,000 of fees  
due and owing from iGambit to Frontrunner; and (5) up to $10,500 of fees due and  
owing from iGambit to MK Appraisal Group for appraisal services; and  
(B)  
A payoff letter in a form reasonably acceptable to IGX NJ and Xxxxx  
pursuant to which (x) Keltic provides amount to repay, in full, the Keltic Debt (and  
per diem), and (y) upon such repayment, (1) all of IGX NJ, Xxxxx, IGX DE and  
iGambit shall be released from any obligations under the Keltic Debt Documents, (2)  
all Keltic Debt Documents shall be terminated and no force or effect and (3) any and  
all liens, encumbrances and security interests held by Keltic against any IGX NJ  
Assets or IGX UK Shares shall be terminated and released, and all of IGX NJ, Xxxxx,  
IGX DE and iGambit shall be authorized to file such necessary UCC termination  
statements to effect the same; or  
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(ii)  
iGambit shall be entitled to receive the Escrow Documents, and IGX NJ and  
Xxxxx shall be entitled to receive the Escrow Funds (including any Income) upon the Rescission  
Agreement being terminated pursuant to the terms thereof prior to the Rescission.  
(b)  
The Escrow Agent shall release the Escrow Funds (including any Income) and Escrow  
Documents to the applicable parties hereto as follows:  
(i)  
in accordance with the joint written instructions of iGambit and Xxxxx; or  
(ii)  
subject to the below provisions of this Section 2(b)(ii) and to Section 4 below,  
pursuant to written instructions from Xxxxx to the Escrow Agent (the “Xxxxx Instructions”), which  
Xxxxx Instructions shall set forth the applicable Release Event and be consistent with the release  
entitlements associated with such Release Event pursuant to Section 2(a) above. The Escrow Agent  
in turn shall give notice to iGambit of receipt of the Xxxxx Instructions (together with a copy of the  
Xxxxx Instructions) within two (2) business days after receipt of the Xxxxx Instructions; and the  
Escrow Agent shall release the Escrow Funds and Escrow Documents as instructed by Xxxxx in the  
Xxxxx Instructions no earlier than three (3) business days after the date that the Escrow Agent gives  
such notice to iGambit, and only if the Escrow Agent shall not have received a written notice from  
iGambit prior to such third (3rd) business day that iGambit disputes Xxxxx’x claim as to appropriate  
release of Escrow Funds and Escrow Documents. If, however, the Escrow Agent shall have received  
a written notice from iGambit prior to such third (3rd) business day that iGambit disputes Xxxxx’x  
claim as to appropriate release of Escrow Funds and Escrow Documents, then the Escrow Agent  
shall not release any Escrow Funds or Escrow Documents except in accordance with joint written  
instructions of iGambit and Xxxxx or with Section 4 below; or  
(iii) subject to the below provisions of this Section 2(b)(iii) and to Section 4  
below, pursuant to written instructions from iGambit to the Escrow Agent (the “iGambit  
Instructions”), which iGambit Instructions shall set forth the applicable Release Event and be  
consistent with the release entitlements associated with such Release Event pursuant to Section 2(a)  
above. The Escrow Agent in turn shall give notice to Xxxxx of receipt of the iGambit Instructions  
(together with a copy of the iGambit Instructions) within two (2) business days after receipt of the  
iGambit Instructions; and the Escrow Agent shall release the Escrow Funds and Escrow Documents  
as instructed by iGambit in the iGambit Instructions no earlier than three (3) business days after the  
date that the Escrow Agent gives such notice to Xxxxx, and only if the Escrow Agent shall not have  
received a written notice from Xxxxx prior to such third (3rd) business day that Xxxxx disputes  
iGambit’s claim as to appropriate release of Escrow Funds and Escrow Documents. If, however, the  
Escrow Agent shall have received a written notice from Xxxxx prior to such third (3rd) business day  
that Xxxxx disputes iGambit’s claim as to appropriate release of Escrow Funds and Escrow  
Documents, then the Escrow Agent shall not release any Escrow Funds or Escrow Documents except  
in accordance with joint written instructions of iGambit and Xxxxx or with Section 4 below.  
3.  
Termination of Agreement. This Agreement shall terminate upon release of the Escrow  
Documents and Escrow Funds in the manner described herein.  
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4.  
Disputes. If there is any dispute among any parties as to the disposition of the Escrow  
Documents and/or Escrow Funds, the Escrow Agent shall continue to hold the Escrow Documents  
and Escrow Funds subject to the order of a court of competent jurisdiction as to the disposition  
thereof. Notwithstanding the foregoing, at the option of the Escrow Agent, at any time after the  
Escrow Agent becomes aware of any dispute between any parties as to the disposition of the Escrow  
Documents and/or Escrow Funds, the Escrow Agent may deposit the Escrow Documents and Escrow  
Funds with the clerk of a court of competent jurisdiction and commence an action in the nature of an  
interpleader for a determination of the respective rights of the parties hereto in the Escrow  
Documents and Escrow Funds, and, in any such case, recover the Escrow Agent’s costs and expenses  
incurred in its role as the escrow agent hereunder, including reasonable attorney’s fees. In the event  
that any court of competent jurisdiction shall render any judgment or enter any order as to the  
disposition of the Escrow Documents and/or Escrow Funds, then the Escrow Agent shall release the  
Escrow Documents and Escrow Funds in accordance with such judgment or order.  
5.  
Duties. The sole duty of Escrow Agent shall be to act in accordance with the terms of this  
Agreement. Escrow Agent may act in reliance upon any instruments or other writings or signatures  
believed by it in good faith to be genuine and may assume that any person or entity purporting to  
give any writing, notice, advice or instruction in connection with the provisions herein has been duly  
authorized to do so. Escrow Agent shall have no responsibility for the contents of any writing or  
other instrument delivered to it hereunder and may rely without any liability upon the contents  
thereof and assume the truth thereof. Escrow Agent may consult with counsel selected by it in its  
sole discretion and may rely fully and without liability of any kind upon any opinion of such counsel  
in respect of any action taken or permitted by Escrow Agent hereunder in good faith and in reliance  
upon such opinion. Escrow Agent shall not be liable for any mistake of fact or error of judgment or  
for any acts or omissions of any kind unless caused by its gross negligence, recklessness or willful  
misconduct. Each of IGX NJ, Xxxxx, IGX DE and iGambit, jointly and severally, shall indemnify  
and hold the Escrow Agent harmless from and against any and all losses, damages, costs and  
expenses that may be incurred by the Escrow Agent in its role as escrow agent hereunder by reason  
of its compliance in good faith with the terms of this Agreement. All risk of loss of value in the  
Escrow Documents and Escrow Funds shall be borne equally by the parties other than the Escrow  
Agent.  
6.  
Conflicts.  
(a)  
Notwithstanding that the Escrow Agent is the attorney for IGX DE and iGambit in the  
transaction to which the escrow arrangement under this Agreement relates or otherwise, the Escrow  
Agent is not acting in its role as escrow agent under this Agreement as the attorney or agent of any  
party; rather, the Escrow Agent is acting in such role in an independent capacity. Notwithstanding  
anything else, solely in connection with its role as escrow agent under this Agreement, the Escrow  
Agent at all times shall act reasonably and in good faith (subject to Section 5 above) to fulfill its  
duties and obligations under this Agreement and to comply with all applicable laws pertaining to  
escrow agents.  
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(b)  
Each of IGX DE and iGambit expressly consents and agrees that the Escrow Agent’s  
legal representation of IGX DE and iGambit shall be limited to those circumstances where the  
Escrow Agent is not obligated to take any action that is inconsistent with or in contravention of the  
Escrow Agent’s duties under this Agreement. Each of IGX DE and iGambit acknowledges that the  
foregoing limitation is voluntarily given after consultation with the Escrow Agent in its role as the  
attorney to IGX DE and iGambit and not in its role as escrow agent hereunder regarding the  
consequences of such limitation. Further, each of IGX DE and iGambit acknowledges that it has had  
reasonable opportunity to consult with an attorney of its choice (i.e., an attorney other than the  
Escrow Agent in its role as the attorney to IGX DE and iGambit hereunder) regarding the  
consequences of such limitation.  
(c)  
Each of Xxxxx and IGX NJ consents and agrees, after having the opportunity to  
consult with legal counsel of its/his choosing, that, subject at all times to the Escrow Agent’s  
compliance with this Agreement (including, without limitation, Sections 5 and 6(a) above) and all  
applicable laws pertaining to escrow agents, the Escrow Agent may continue to represent and act as  
legal counsel to IGX DE and iGambit notwithstanding the Escrow Agent’s status as escrow agent  
under this Agreement. Further, subject at all times to the Escrow Agent’s compliance with this  
Agreement (including, without limitation, Sections 5 and 6(a) above) and all applicable laws  
pertaining to escrow agents, each of IGX NJ and Xxxxx waives any conflicts of interest that may arise  
from the Escrow Agent’s concurrent roles as the escrow agent under this Agreement and the attorney  
for IGX DE and iGambit (including without limitation in connection with the Escrow Agent’s legal  
representation of IGX DE and/or iGambit in any dispute or litigation under this Agreement or the  
Rescission Agreement (including any interpleader action that may be brought with regard to any of  
the Escrow Documents or Escrow Funds)).  
7.  
Notices. All notices, demands or other communications to be given or delivered under or by  
reason of the provisions of this Agreement shall be in writing and shall be deemed to have been  
given (a) when delivered personally to the recipient, (b) when sent to the recipient by facsimile or  
electronic mail (receipt electronically confirmed by sender’s facsimile machine or electronic mail  
service) if during normal business hours of the recipient, otherwise on the next business day, or (c)  
one (1) business day after the date when sent to the recipient by reputable express courier/delivery  
service (charges prepaid), or by certified or registered mail, return receipt requested and postage  
prepaid. Such notices, demands and other communications shall be sent to the parties at the  
respective addresses indicated below or to such other address as any party hereto may, from time to  
time, designate in writing delivered pursuant to the terms of this Section 7:  
If to IGX NJ or Xxxxx:  
With a copy to:  
Xxxxxx Xxxxx  
Xxxxxx, Xxxxx & Xxxxxxxx, P.C.  
00 Xxxx Xxxxx  
000 Xxxxx Xxxxxx  
Xxxxxxxxxxx, XX 00000  
Xxxxxxxx, XX 00000  
Attn: Xxxxx X. Xxxxxxx  
Fax: (000) 000-0000  
Email: xxxxxxxx@xxx.xxx  
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If to IGX DE or iGambit:  
With a copy to:  
iGambit Inc.  
Xxxxxxx & Xxxxxxx  
0000 X. Xxxxxxx Xxxx, Xxxxx X  
000 Xxxx Xxx Xxxx Xxxxxxxxx  
Xxxxxxxxx, XX 00000  
Las Olas Centre II, Suite 1150  
Attn: Xxxxx Xxxxxx, Esquire  
Xxxx Xxxxxxxxxx, XX 00000-0000  
Fax: (000) 000-0000  
Attn: Xxxx Xxxxxxxxx  
Email: xxxxx@xxxxxxx.xxx  
Email: XXxxxxxxxx@xxxxx.xxx  
If to Escrow Agent:  
Xxxxxxx & Xxxxxxx  
000 Xxxx Xxx Xxxx Xxxxxxxxx  
Las Olas Centre II, Suite 1150  
Xxxx Xxxxxxxxxx, XX 00000-0000  
Attn: Xxxx Xxxxxxxxx  
Email: XXxxxxxxxx@xxxxx.xxx  
8.  
This Agreement may not be altered or amended in any manner without the written agreement  
of all parties hereto. However, iGambit and Xxxxx may by mutual written agreement remove the  
then acting Escrow Agent by joint written notice to the then acting Escrow Agent (the “Removal  
Notice”) identifying the successor escrow agent hereunder; and Escrow Agent, at its option, may, at  
any time after that date which is one (1) month after the date of this Agreement, voluntarily withdraw  
as the escrow agent hereunder by written notice to the parties (the “Withdrawal Notice”) given ten  
(10) business days prior to the effective withdrawal date indicated therein (the “Withdrawal Date”).  
(a)  
Within three (3) business days after its receipt of any Removal Notice, the then acting  
Escrow Agent shall deliver the Escrow Documents and Escrow Funds, as such are then constituted,  
to the successor escrow agent indicated in the Removal Notice, and upon delivery of such Escrow  
Documents and Escrow Funds to such successor escrow agent, the then acting Escrow Agent shall  
be, and hereby is, released of all further obligations hereunder.  
(b)  
On or before that date which is three (3) business days before the Withdrawal Date,  
iGambit and Xxxxx shall by joint written notice to withdrawing Escrow Agent identify the successor  
escrow agent hereunder; and upon the Withdrawal Date the withdrawing Escrow Agent shall deliver  
the Escrow Documents and Escrow Funds, as such are then constituted, to the successor escrow  
agent indicated in such joint written notice from iGambit and Xxxxx, and upon delivery of such  
Escrow Documents and Escrow Funds to such successor escrow agent, the withdrawing Escrow  
Agent shall be, and hereby is, released of all further obligations hereunder. Notwithstanding the  
foregoing, if iGambit and Xxxxx fail to deliver joint instructions to the withdrawing Escrow Agent on  
or before that date which is three (3) business days before the Withdrawal Date, then Escrow Agent,  
at its option, at any time thereafter, may deposit the Escrow Documents and Escrow Funds with the  
clerk of a court of competent jurisdiction and commence an action in the nature of an interpleader for  
a determination of the respective rights of the parties hereto in the Escrow Documents and Escrow  
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Funds, and, in any such case, recover the Escrow Agent’s costs and expenses, including reasonable  
attorney’s fees, incurred in its role as escrow agent hereunder.  
(c)  
Effective upon the effective time of the withdrawal or removal of the Escrow Agent  
as escrow agent hereunder, any successor escrow agent appointed by iGambit and Xxxxx (which  
appointment shall be made in writing by iGambit and Xxxxx and accepted in writing by such  
successor escrow agent) shall succeed to all of Escrow Agent’s rights and obligations as escrow  
agent hereunder and from and after such time shall be the “Escrow Agent” hereunder for all  
purposes hereunder (provided that, notwithstanding anything else, no successor escrow agent shall  
act in concurrent roles as the attorney for any party hereunder and as the escrow agent hereunder  
unless iGambit and Xxxxx agree in writing to such concurrent roles).  
9.  
Successors and Assigns. This Agreement and the rights of the parties hereunder shall be  
binding upon and shall inure to the benefit of the parties hereto, and their heirs, personal  
representatives, successors and assigns.  
10.  
Electronic Signatures; Counterparts. Facsimile transmissions or scanned and then emailed  
transmissions of any executed original document or retransmission of any executed facsimile or  
scanned and emailed transmission shall be deemed to be the same as the delivery of an executed  
original (collectively, “Electronic Signatures”). At the request of any party hereto, the other parties  
hereto shall confirm transmissions of the Electronic Signatures by executing duplicate original  
documents and delivering the same to the requesting party or parties. This Agreement may be  
executed in any number of counterparts and by the parties hereto in separate counterparts, each of  
which when so executed shall be deemed to be an original and all of which taken together shall  
constitute one and the same agreement.  
11.  
Governing Law. This Agreement shall be governed by and construed in accordance with the  
internal laws of the State of Flordia, without giving effect to any choice or conflict of law provision  
or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of  
the laws of any jurisdiction other than the State of Florida.  
12.  
Severability. In case any provision of this Agreement shall be invalid, illegal or  
unenforceable, it shall, to the extent possible, be modified in such manner as to be valid, legal and  
enforceable but so as most nearly to retain the intent of the parties. If such modification is not  
possible, such provision shall be severed from this Agreement. In either case the validity, legality  
and enforceability of the remaining provisions of this Agreement shall not in any way be affected or  
impaired thereby.  
[Intentionally Left Blank – Signature Page(s) Follows]  
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[Signature Page to the Escrow Agreement]  
IN WITNESS WHEREOF, this Agreement has been executed as of the day, month and year first  
above written.  
IGX GLOBAL INC.  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Name:  
Title:  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Xxxxxx Xxxxx  
IGXGLOBAL CORP.  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Name:  
Title:  
IGAMBIT INC.  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Name:  
Title:  
XXXXXXX & XXXXXXX  
By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Name:  
Title:  
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